

MINUTES
Texas Real Estate Commission
June 11, 2001
Conference Room 235, Texas Real Estate Commission
Austin, Texas

Chairman Michael Brodie called the regularly scheduled meeting of the Texas Real Estate Commission to order at 9:00 a.m., Monday, June 11, 2001. In addition to Chairman Brodie, members present were Ramon "Mick" Cantu, Lawrence Jokl, James Austin, John Walton, Louise Hull, Paul Jordan, Maria Gil and Kay Sutton.

Staff present were: Wayne Thorburn, Administrator; Sabrina Hassumani, Assistant Administrator; Mark Moseley, General Counsel; Alan Waters, Director of Staff Services; Loretta DeHay, Director of Enforcement; Glen Bridge, Director of Information Services; Gwen Jackson, manager of the Education Section; Michelle Bowens, manager of the Licensing Section; Lorie Deanda, manager of the Communications Section; and Patricia Holder, Executive Assistant.

After calling the meeting to order, Chairman Brodie led the attendees in the pledge of allegiance and the Texas pledge of allegiance. At Mr. Brodie's request, the three new members, Louise Hull, Paul Jordan and John Walton introduced themselves.

Chairman Brodie moved to agenda item two, minutes of April 23, 2001, Commission meeting. Mr. Jokl, seconded by Mr. Austin, moved to approve the minutes as submitted. The motion was adopted by unanimous vote.

Mr. Brodie moved to agenda item three, monthly staff reports; committee reports; report on legislation.

Ms. Hassumani reported on the L1 report that was covered in the partial report for May. She reported that the number of licensees for all license types had increased over the number last year. Mr. Thorburn added that this was the first time in four years that licensees had numbered more than 110,000.

Ms. DeHay introduced the new receptionist in Enforcement, Bobbi Scumaci. She referred to the E1 report in the staff reports. The number of cases opened in May was 341 and 297 were closed. The total number of cases open at the end of the month was 605. The average number of days a case remained open year-to-date is 87. She also announced that the investigators will be in town for a training conference offered by ARELLO (Association of Real Estate License Law Officials) beginning July 17, 2001.

Mr. Bridge reported that the licensee look up function on the web site had been rewritten to make it more effective. The ability to look up the education courses taken by a licensee had been added to the site. There was discussion concerning additional links on the site to pages that listed approved education courses. Mr. Bridge reported that to date 1,725 licensees had renewed online. Of this total 898 were salespersons and 827 were brokers. There was discussion concerning online applications for potential licensees.

Mr. Waters introduced a new employee in the Cashier Section, Peggy Dlouhy. Mr. Waters reported on the building renovations. He informed the members that an operating budget would be coming before them for approval before the end of the calendar year.

Mr. Thorburn reported that the housekeeping bill, House Bill 695, passed during the legislative session and he summarized the major provisions of the bill. Effective January 1, 2002, a salesperson applicant must have 60 hours of Principles of Real Estate, raising the total number of core hours required to apply for a license to 120. Broker applicants would be required to have 270 hours of core real estate courses, and the total

number of hours needed for a broker's license would remain the same. Applications for a salesperson's license filed beginning September 1, 2001, will no longer be required to have a sponsoring broker. The license issued from such an application would be inactive and a sponsoring broker would be required before that licensee could become active. The Commission was granted authority to modify the content of core real estate courses and to prescribe the title, content, and length of continuing education courses. TREC was given authority to take action against "any person" who violates The Real Estate License Act, allowing more direct action against persons practicing real estate without a license. There was an increase in the Inspection Recovery Fund limits. The bankruptcy exemption was eliminated in connection with the two recovery funds.

The Chairman moved to agenda item four, general comments from visitors. There were no comments.

Chairman Brodie moved to agenda item five, discussion and possible action to adopt: (a) amendment to 22 TAC §535.148, concerning receiving an undisclosed commission or rebate. Mr. Moseley presented the agenda item for discussion and possible action to adopt.

Mr. Jokl, seconded by Ms. Sutton, moved to adopt the amendment to 22 TAC §535.148, concerning receiving an undisclosed commission or rebate as submitted. The motion was adopted by unanimous vote.

Chairman Brodie moved to agenda item five, discussion and possible action to adopt: (b) amendment to 22 TAC §535.64, concerning examination preparation courses. Mr. Moseley presented the agenda item for discussion and possible action to adopt.

After discussion, Ms. Gil, seconded by Mr. Austin, moved to adopt the amendment to 22 TAC §535.64, concerning examination preparation courses as submitted. The motion was adopted by unanimous vote.

Mr. Brodie moved to agenda item six, discussion and possible action to propose amendments to 22 TAC: (a) §535.51, concerning general requirements for a real estate license, (b) §535.91 and §535.92, concerning license renewals, (c) §535.101, concerning fees, (d) §535.208, concerning application for an inspector license, (e) §535.210, concerning fees, (f) §535.216, concerning renewal of license, and (g) §535.403, concerning renewal of registration.

Mr. Moseley presented agenda items six(a) through (g) for discussion and possible action to propose. Ms. Sutton, seconded by Ms. Gill, moved to propose the amendments to 22 TAC (a) §535.51, concerning general requirements for a real estate license, (b) §535.91 and §535.92, concerning license renewals, (c) §535.101, concerning fees, (d) §535.208, concerning application for an inspector license, (e) §535.210, concerning fees, (f) §535.216, concerning renewal of license, and (g) §535.403, concerning renewal of registration. The motion was adopted by unanimous vote.

The Chairman moved to agenda item seven, discussion and possible action to set policy in response to complaint information obtained in recovery fund claims. After discussion, Mr. Cantu, seconded by Mr. Jordan, moved to approve the following policy. "Staff will present such information to the members during a meeting and obtain authorization to conduct an investigation, in the same manner as we now handle those situations when other potential violations have come to the staff's attention. The policy would be limited to those recovery fund claims in which the Commission has agreed to pay a claim, and there are other defendants whose conduct has been called into question in the petition or judgment."

After discussion, the motion was adopted with Ms. Gil, Mr. Jordan, Mr. Austin, Ms. Hull, Mr. Cantu, Mr. Jokl and Mr. Walton in favor of the motion and Ms. Sutton against the motion.

Chairman Brodie moved to agenda item eight, discussion and possible action to approve training for investment officer pursuant to Public Funds Investment Act, Texas Government Code, §2256.005. Mr. Waters presented background on the agenda item. Mr. Austin, seconded by Ms. Sutton, moved to approve the training attended by Karen Alexander. The motion was adopted by unanimous vote .

The Chairman moved to agenda item nine, discussion and possible action on notice required by House Bill 2033, 77th Legislature. Mr. Moseley presented the agenda item for discussion and possible action. Mr. Jokl, seconded by Ms. Sutton, moved to request that the Broker-Lawyer Committee develop a standard addendum for use by licensees to comply with the new law. The motion was adopted by unanimous vote.

Mr. Brodie moved to agenda item 10, approval of Commissioner attendance at ARELLO meeting and consideration of negating previous commission policy. Mr. Thorburn presented the agenda item for discussion. After discussion, the Commission directed staff to compile as complete a list as possible of all known policies issued by the Commission, also, staff would present recommendations for new policies or revisions to existing policies at the September meeting.

The Chairman moved to agenda item eleven, consideration of complaint information. Ms. DeHay requested authorization to initiate investigations on the following persons for failing to complete their Mandatory Continuing Education hours or pay the \$200 fee needed to renew a license within the time required by rule for failure to provide information in connection with their license renewals: Monna Bratton Davis; Michael E. Dowell; Jim Allen Frederick; Michael Harold Fritz; Tom Anthony Hickey; George Hamilton Hopkins, Jr.; Mohammad Ladjevardian; Ronald Lee Marr; Michael Steven McGrath; Michael Craig Owens; Dudley Crawford Sharp III; and William Kenneth Thurmond. Mr. Austin, seconded by Ms. Gil, moved to authorize initiating the investigations. The motion was adopted by unanimous vote.

Ms. DeHay requested authorization to initiate investigations on the following persons for failure to provide information in connection with their license renewals: Natalie Joy Darnell; Leizann Michelle Engelke; Maya Cameron Houston; Susan Elam Jasper; Linda Fitch Phelps; Brion Gary Randall; John Richard Sullivan; and Darryl Andrea Williams. Mr. Austin, seconded by Ms. Sutton, moved to authorize initiating the investigations. The motion was adopted by unanimous vote.

Chairman Brodie moved to agenda item twelve, motions for rehearings: (a) In the Matter of Robert Ames Yancey, Hearing No. 01-20-002142; (b) In the Matter of Carl Eugene Hedlund, Hearing No. 01-119-002989; and (c) In the Matter of William Hardy Ainsworth, Hearing No. 01-80-000292 and Metro of El Paso, Inc., Hearing No. 01-81-000292. The Chairman announced that there would be a break to begin at 10:10 a.m. during which the parties to these matters could meet with Mr. Cantu, the presiding member for rehearings, for a pre-hearing conference.

The break ended at 11:05 and the gavel was passed to Mr. Cantu. Mr. Cantu called for agenda item twelve (b) the motion rehearing in the matter of Carl Eugene Hedlund, Hearing No. 01-119-002989. Mr. Hedlund did not appear. Beverly Rabenberg, staff attorney, appeared for the Enforcement division. Ms. Rabenberg presented the Enforcement division's responses to the motion for rehearing, the motion for probation and motion for modification. Mr. Cantu called for a vote on the motions. The motion for rehearing was overruled by unanimous vote, the motion for probation was overruled by unanimous vote and the motion for modification was overruled by unanimous vote.

Mr. Cantu called for agenda item twelve (c) the motion for rehearing in the matter of William Hardy Ainsworth, Hearing No. 01-80-000292 and Metro of El Paso, Inc., Hearing No. 01-81-000292. Mr. Ainsworth did not appear. No representative for Metro of El Paso, Inc. appeared. Ms. Rabenberg, staff attorney, appeared for the Enforcement Division. Ms. Rabenberg presented the Enforcement division's response to the motion for rehearing. Mr. Cantu called for a vote on the motion for rehearing. The motion was overruled by unanimous vote.

Mr. Cantu called for agenda item twelve (a) the motion for rehearing in the matter of Robert Ames Yancey, Hearing No. 01-20-002142. Chairman Brodie recused himself and left the room. Mr. Cantu stated that the parties wished to withdraw all motions for rehearing, probation and modification and requested that the parties to the motion reaffirm this. Jerome Prager, attorney, appearing for Mr. Yancey, stated that they wished to withdraw all motions in the rehearing with the hope that the Commission would allow a hearing on the application for late renewal. Brad Bowman, staff attorney, stated that the Enforcement division had agreed to withdraw all motions before the Commission on this matter. He further stated that the Enforcement division's position is that the application process be allowed to proceed as normal. Mr. Moseley, general counsel, as Commission advisor, explained that if the Commission chose to they could hold a hearing on the disapproval of the late renewal application, since all motions had been withdrawn, but they were not obligated to do so. Mr. Bowman provided a copy of the disapproval letter to Mr. Prager, Mr. Yancey and the Commission members present.

Mr. Cantu called for a vote on whether or not a hearing on the disapproval of the late renewal application should be held. Mr. Walton and Mr. Jordan voted against holding the hearing. Mr. Austin, Mr. Cantu, Ms. Sutton, Ms. Gil, Mr. Jokl and Ms. Hull voted in favor of holding the hearing.

Mr. Cantu called for the hearing on the matter of the late renewal application of Robert Ames Yancey. The parties waived notice and stipulated that Mr. Yancey conducted activities after April 30, 2001 requiring real estate licensure until the time he received written notice from the Commission that his renewal application was not filed timely; and that Mr. Yancey answered untruthfully on his application for late renewal that he had not conducted activities requiring licensure during the time he was not a licensed person.

Mr. Prager presented Mr. Yancey's request to have the disapproval of his late renewal application overturned and issue him a probationary license under conditions that the Commission deemed appropriate.

Mr. Bowman presented the Enforcement division's answer to this request and its request to have the matter of the late renewal application disapproval handled through the normal procedures of the Commission.

Mr. Yancey was sworn and responded to questions from the members and Mr. Bowman. After discussion, Mr. Cantu asked for a motion.

Ms. Sutton, seconded by Ms. Gil, moved to overturn the disapproval of Mr. Yancey's late renewal application. After discussion, the motion was adopted by unanimous vote.

There was discussion concerning the issuance for a probationary license and other terms and conditions that could be included in and order. After discussion, Mr. Jokl, seconded by Ms. Sutton, moved that Mr. Yancey be issued a probationary license and that it remains a probationary license for four years along with the usual terms and conditions included in such orders. The motion was adopted by unanimous vote.

Mr. Cantu moved to agenda item fourteen, executive session to discuss pending litigation pursuant to Texas Government Code, § 551.071, to consider the duties, responsibilities and performance of the

administrator pursuant to Texas Government Code, §551.074(a)(1), and, if necessary, to receive legal advice from general counsel on posted agenda items under Texas Government Code, §551.071. The executive session began at 12:34 p.m.

The meeting was called back to order at 1:00 p.m. by Chairman Brodie. Mr. Brodie moved to agenda item fifteen, discussion and possible action to authorize payments from recovery funds.

IRF 01-001 Susan Moon v. James Edwin Dilday and Edgar Carruth Gerault, in the amount of \$7,500 actual damages. Ms. Hull, seconded by Ms. Sutton, moved approval. The motion was adopted by unanimous vote.

RF 01-011 Marsha A. Bolles v. Fred Contreras and Eduardo A. Rodriguez, in the amount of \$20,000 actual damages and \$3,000 in attorneys fees. Mr. Jordan, seconded by Ms. Sutton, moved approval. The motion was adopted by unanimous vote.

Mr. Brodie moved to agenda item sixteen, schedule future meetings and adjourn. Mr. Thorburn presented a suggested schedule. The Commission agreed that meetings would be scheduled for September 10, 2001, October 29, 2001, December 3, 2001 and February 4, 2002. The next regularly scheduled meeting of the Commission is July 16, 2001. The meeting was adjourned at 1:10 p.m.

APPROVED this the 16th day of July, A.D., 2001.

Chairman

ATTEST: _____